

A

True and Just Account

Of what was Transacted in the

COMMONS HOUSE,

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Westminster, Anno. Dom. 1648.

When that House Voted DAVID JENKINS Esq; a Welch Judge, and Sir FRANCIS BUTLER, to be guilty of HIGH TREASON against themselves, without any Tryal; And also an Account of what the Committee of that House proffer'd the said Judge, if he would own their Authority to be Lawful; and his Noble ANSWER to all their Proposals,

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Likewise an ACCOUNT of an excellent SPEECH that the said Judge intended to have spoken at the Place of his Execution; All which Matters and Things D. T. Esq; had from the Mouth and Notes of the said Sir FRANCIS BUTLER.

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to the speaker at the place of his Ex-
cellency; All which Matters and
Things I have had from the
Masters and some of the said
Masters.

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*A faithful Account of what
Sir Francis Butler related
to me, concerning what
was done and said by the
late famous David Jen-
kins, Esq; one of the
Judges in Wales, in the
Reign of King Charles
the First.*

IN the Year 1682, I went and
resided in the Town of *Hertford*,
and there continu'd for about
Five Years, during which Time
I became acquainted with many
Gentlemen of *Hertfordshire*, who were

Loyal; Among whom was, Sir *Francis Butler*, whose Seat was about a Mile from *Hatfield*, a Gentleman of great Knowledge and Ingenuity, and of inflexible Loyalty, and who was in the Commission of the Peace, and was one of the Burgeses for the Commons House in Parliament, for the Town of *Hertford*; and I have been inform'd, that in his younger Years he was Educated under the Influence of the late great Earl of *Strafford* (that Martyr for King *Charles* the First) It was my good Fortune to be intimately acquainted with this worthy Gentleman, who seem'd to be then above Seventy Years of Age. He told me, That Judge *Jenkins*, and he, were Prisoners together in the Time of the Rebellious House of Commons, in the Tower of *London*, and after in *Newgate*: And I having desir'd him to give me an Account of the Proceedings against them, he acquainted me as followeth. That Judge *Jenkins* and He, having been taken out of the Tower, and committed to *Newgate*, were by an Order of that Rebellious House of Commons brought before them, where being both at
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the Bar of that House, *Lenthall*, the Speaker made a Speech to them to this Effect.

That it was notorious, that they two had been most violent Malignants and Traitors to that Honourable House; Wherefore the House intended to proceed against them as Traitors to the Parliament, (meaning their wicked House only) and in Particular, He said to Judge *Jenkins*, That his Behaviour was taken Notice of by the House, in his not paying any Obedience to the Chair, when he came to the Bar, which was the greater Fault in him, seeing he pretended to be knowing in the Laws of the Land. Sir *Francis* said, during this Speech of *Lenthall's*, Judge *Jenkins* had pray'd him softly, not to speak much, so to let all their Malice fall on him only, since he was in Years, and Sir *Francis* but Young, in Respect to him. And when the Speaker's Speech was ended, Judge *Jenkins* ask'd, Whether they wou'd now give him Liberty to speak? Yes, answer'd *Lenthall*, So you be not very long. No said the Judge, I will not trouble either my Self or You

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with many Words. In your Speech, Mr. Speaker, You said the House was offended at my Behaviour, in not making any Obeysance to you at my coming here, and this was the more wonder'd at, because I pretended to be knowing in the Laws of the Land. In Answer to which, Mr. Speaker, I say that I thank God, I not only pretend to be, but am knowing in the Laws of the Land (having made it my Study for these Five and Forty Years) and because I am so, that was the Reason of such my Behaviour: For as long as you had the King's Arms engraven on your Mace, and acted under his Authority; had I come here I wou'd have bowed my Body in Obedience to his Writ and Authority, by which you were first call'd. But, Mr. Speaker, since you and this House have renounc'd all your Duty and Allegiance, to your Sovereign and natural Liege Lord the King, and are become a Den of Thieves; Shou'd I bow my self in this House of *Rtmon*, the Lord wou'd not pardon me in this Thing. Upon which the whole House fell into such an Uproar and Con-

Confusion, that for half an Hour they could not be reduc'd into any Order, for sometimes Ten, sometimes Twenty, wou'd be all speaking together; but at Length the Fury abated, and the House Voted, they were both guilty of High Treason (without any Trial at all) and shou'd suffer as in Cases condemn'd for Treason. So they call'd for the Keeper of *Newgate*, to know the usual Days for Execution in such Cases, he told them it was usually on *Wednesdays* or *Fridays*, and then was debated whether it shou'd be done on next *Wednesday* or *Friday*. Then stood up *Harry Martin* (the Droll of that House) who had not spoken before; He said he would not go about to meddle in their Vote, but as to the Time of Execution, he had something to say; especially as to Judge *Jenkins*. Mr. Speaker, says he, Every one must believe that this old Gentleman here, is fully possess'd in his Head; That he is *Pro aris, & focis mori*. That he shall die a Martyr for this Cause: For otherwise he never wou'd have provok'd the House by such biting Expressions; Whereby
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it is apparent that if you execute him, you do what he Hopes for, and Desires, and whose Execution may have a great Influence upon the People, since not condemn'd by a Jury: Wherefore my Motion is, That this House wou'd suspend the Day of Execution, and in the mean Time, force him to Live in Spight of his Teeth: Which Motion of his put the House into a Fit of good Humour, and they cry'd; Suspend the Day of Execution, so they were return'd back to *Newgate*. And being there, *Sir Francis* ask'd the Judge whether he had not been too hardy in his Expressions to the House. Not at all said he: For Things of a rebellious Nature, have been so successful in this Kingdom, and have gotten such a Head, that they will almost allure the Weak Loyal Man to comply therewith, if some vigorous and brave Resistance is not made against them, and to their very Faces; and this was the Cause why I said such home Things to them Yesterday. And altho' I have oppos'd Rebels and Traitors all my Life hitherto; Yet I perswade my self, that at the Time of my Execution, on the
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Day of my Death, I shall be like to *Sampson*, and destroy more *Philistins* than ever I did in all my Life, that is, confound their *Rebellious Assertions*. And in this Thought of mine, I am so wrap'd up, that I hope they won't totally suspend my Execution. I will now said the Judge, tell you all that I intend to do and say at that Time; First, I will eat much *Liquorish* and *Gingerbread*, thereby to strengthen my Lungs, that I may extend my Voice far and near; for no doubt there will be great Multitudes at the Place: And then I will come with *Bracton's* Book hung upon my left Shoulder, with the Statutes at Large hung on my right Shoulder, and the Bible with a Riband put round my Neck and hanging on my Breast. Then I will tell the People, that I was brought there to die for being a Traytor; indeed, if this be true, I was not fit to live. And believe the Words of a dying Man, I heartily wish that all the Rebels and Traytors in the Kingdom, would come to my Fate. But to inform you all better, that I never was a Traytor, is this,

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that even the House of Commons it self did not think I was a Traytor, for had they believed this, they would have had me try'd for the same in a fair and legal Manner, according to the constant Custom, used in this Kingdom for a Thousand Years, that is to say, to be try'd by a Jury; which they feared to let me have, for they well knew, no honest Jury would ever have found me guilty of Treason; for being only Loyal and True to our lawful and rightful Sovereign the King. For this Cause it was they debarred me of my Birthright, a Tryal by my Peers, that is by a Jury, although in a Case of Life and Death. So it is notorious they did not think me guilty according to Law; but yet thirsting still after my Blood, they found out a new unheard of Way to bring me to my Death, and that was by voting me guilty of High Treason. And by the same detestable Way, they may Vote Ten Thousand of you at once, guilty of Treason, then hang you like me, and seize all your Estates: And this they will do

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do when they find it convenient to support their tyrannous Power. Yet notwithstanding my known Innocence in their own Conscience, they, against all Right and Conscience, have sentenced me to die for Treason.

Well then, since they will have me a Traytor right or wrong, I must die for the same. I thought it was but just to bring my Counsellors with me, who have all along advis'd me in what I have done. That these I say, ought therefore to be hang'd as well as I, for they are as much guilty as I. Then said he, I will first take *Bracton*, who I will inform them was one of our most famous ancient Lawyers (who wrote in the Reign of King *Henry the Third*, towards the latter End of it) he says, *Liber the 4th, cap. 24. Sect. 1. Rex habet potestatem & Jurisdictionem qui in Regno suo sunt ea quæ sunt Jurisdictionis & pacis ad nullam pertinent, nisi ad Regiam Dignitatem, habet etiam coercionem, ut delinquentes puniat & coercet, &c.* Which proves the supreme

Power to be in the King: Again, at Sect. 5. too he says; *Omnis sub Rege, & ipse sub nullo nisi tantum Deo, &c. Non parem habet in Regno suo*, which further proves he is Supreme, and all Others are subordinate and subject to him: Again, *Liber 5. &c, Tract 3. cap. 3. &c. Rex non habet Superiorem nisi Deum, satis habet ad pœnam quod Deum expectat Ultorem.* Which undeniably proves him to have the supreme Power, and that one or both Houses of Parliament, had no supreme Power, but were under Obedience and Duty, as being his Subjects; so then I will tell the People this Book was one of my evil Councillors, so was to be hang'd with me. Then said the Judge, I will open the Statute Book that hangs on my right Shoulder, and read to the People what is enacted, and declar'd to be Law, in the Oath of Supremacy made in the first Year of Queen *Elizabeth*, which Oath the Subjects of this Kingdom are oblig'd to take, especially all Parliament Men. They therein do swear, testify and declare, in their Conscience, that the Queen (or King) is the only
supreme

supreme Governor of this Realm, as well in all Spiritual and Ecclesiastical Things and Causes, as in Temporal, &c. And do promise to bear Faith and true Allegiance to the King, his Heirs, and lawful Successors, &c. Where I will note to them, that the Word Lawful is not put before the Word Heirs, for that wou'd have been Tautology only, since no Person can have an Heir, but who is Lawful, for the Law nominates who is Heir to every one. But the Epithet Lawful, is placed immediately before the Word Successors; and it is too well known, that several of our lawful Kings, have had unlawful Successors, and so such this Oath doth not extend, nor are they within the Intent or Meaning of the said Oath. Then said the Judge, I will open to the People the Oath of Allegiance, made in the Third Year of King James. Where again, "The subjects swear to bear
 "Faith and true Allegiance to the
 "King, his Heirs, and Successors, and
 "them will defend to the utmost of
 "their Power, against all Conspira-
 "cies whatsoever, against their Per-
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“ son, Crown, or Dignity, &c. And
 “ also that they believe in their Con-
 “ science, and are therefore resolv’d,
 “ That neither the Pope, nor any
 “ Person whatsoever, hath Power to
 “ absolve them of this Oath (where
 “ other excellent Matters are con-
 “ tain’d) &c. Which makes it clear
 to a Demonstration, that they who
 have taken the said Oaths (and all
 the Commons House have taken
 them) and yet do not pay Allegi-
 ance and Obedience to the lawful
 Sovereign, all such Subjects are not
 only Rebels and Tryators to the
 King, but also are perjur’d, at least
 forsworn, into the Bargain. So then
 said the Judge, This Book of Sta-
 tutes, being another of my evil Coun-
 cellors, I think it should also be
 hang’d with me. Then I will open
 the Bible that is upon my Breast,
 and read to them out of the 13th
 Chapter to the *Romans*; “ Let every
 “ Soul be subject to the higher Pow-
 “ ers, for there is no Power but of
 “ God, the Powers that be, are or-
 “ dain’d of God: Whosoever there-
 “ fore resisteth the Power, resisteth
 “ the

“ the Ordinance of God, and they
 “ who resist, shall receive to them-
 “ selves Damnation, v. 5. Wherefore
 “ you must needs be subject not only
 “ for Wrath, but also for Conscience
 “ sake. Then I will open and read
 to them also the 2d Chapter of St.
Peter's first Epistle and 13th. “ Sub-
 “ mit your selves to every Ordinance
 “ of Man for the Lord's Sake, whe-
 “ ther it be to the King as Supreme,
 “ or unto Governors, as unto them
 “ who are sent by him for the Pu-
 “ nishmenr of evil Doers, and for
 “ the Praise of them that do well:
 “ For so is the Will of God, that
 “ with well doing, ye may put to
 “ Silence the Ignorance of foolish
 “ Men.” And then I will observe
 to them from St. *Paul*, “ That the
 “ higher Powers to whom all are to
 “ be subject, are the King. For St. *Peter*
 here saith, in expresse Words, “ That
 “ the King is the Supreme, so must be
 “ the higher Powers mentioned by
 St. *Paul*. Again, where St. *Paul* saith,
 “ There are no Powers but of God,
 “ and the Powers that be, are ordained
 “ of

“ of God. Those Powers here mentioned must of Necessity be understood to be such Powers as are Lawful: And not such Power, as Thieves, Pirates, Banditti, rebellious Men, or Usurpers sometimes acquire. Surely such are not to be obey'd for Conscience Sake, under the Penalty of Damnation; for by so doing we should be Partakers of their notorious Sins, and would thereby be Accomplices in their Guilt. And our Saviour himself says, “ Render to *Cesar* the Things “ that are *Cesars*. He don't say, render to the Senate of *Rome* any Thing; and yet they had much better Pretence to rule, than our House of Commons: So good People this holy and sacred Book has also been another of my evil Councillors, and therefore shall also hang with me, for I will not part with it whilst I have Breath. So said the Judge when they shall see me die, affirming these Things, it will cause Thousands to inquire further into this Matter, and having found all I told them to be true, they will loath and detest the present

present Tyranny. But no Day of Execution was ever appointed; yet afterwards they sent a Committee from the Commons House to *Newgate* to the Judge, and made this Offer to him, That if he wou'd own their Power for lawful, they wou'd not only take off the Sequestration from his Estate (which was about 500 *l. per Ann.* but wou'd also settle a Pension on him for Life of a 1000 *l.* a Year: To which he answer'd, Far be it from him to own Rebellion (altho' it was successful) to be Just and Lawful, so he desir'd to see their Backs. Then the Chief of them made another Proposal to the Judge, and said he shou'd have the same was mention'd above, if he wou'd but permit and suffer them for to put in Print, that he did own and acknowledge their Power to be Lawful and Just, and wou'd not Gain say it. To this he answer'd, He wou'd not connive at their so doing, for all the Money they had robb'd the Kingdom of, and shou'd they be so impudent to print any such Matter, he

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wou'd sell his Doublet and Coat to buy Pens, Ink and Paper, and wou'd set forth the Commons House in their proper Colours (that is, wou'd make them appear to be Scandalous, Impudent, and Lying Rebels.) When they found him so firm. One of the Committee used this Motive, You have a Wife and Nine Children who all will Starve, if you refuse this Offer; so consider for their Sakes; they make up Ten pressing Arguments for your Compliance.

What, said the Judge, did they desire you to press me in this Matter. I won't say they did, replied the Committee-Man; but I think they press you to it without speaking at all. With that the old Man's Anger was heightened to the utmost, and in Passion said; Had my Wife and Children petitioned you in this Matter, I would have looked on her as a Whore, and them as Bastards. Upon this the Committee departed, and he continued in *Newgate*, unto the Restauration: Soon after

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after which I have been informed,
that this most heroical and loyal Judge
died, whose Memory and Doings
ought never to be forgotten by loyal
Men.

F I N I S.

(19)

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